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TAGS: KAWC PREL PGOV IT

SUBJECT: AMB. WILLIAMSON DISCUSSES WAR CRIMES TRIBUNALS,
DETAINEES WITH ITALIAN MFA

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Classified By: Classified by David D. Pearce, Political Minister Counselor, for reasons 1.4 (b) and (d).

Summary

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¶1. (C) Ambassador-at-Large for War Crimes Issues Clint Williamson met with MFA Balkans Office Director Raimondo De Cardona, Deputy Legal Advisor Valerio Astraldi, Director of the Great Lakes Office Orazio Guanciale and UN Coordinator Giamberto De Vito on May 21 to discuss the International Criminal Tribunal for Yugoslavia (ICTY), the International Criminal Tribunal for Rwanda (ICTR), and detainee issues. Williamson stressed that, with regards to the ICTY, the US was interested in the selection of the next Prosecutor; the smooth completion of the work of the ICTY, including residual issues; domestic war crimes prosecutions; and the remaining fugitives. With regards to the ICTR, fugitives; case transfers to Rwanda; and potential RPF indictments remain the primary concerns.

¶2. (C) De Cardona noted that the EU and NATO had gone as far as they can on conditionalities and Kostunica should be given more time to deliver Mladic. De Cardona, Astraldi, and De Vito agreed with Williamson that the Tribunals should be encouraged to meet completion strategy deadlines and that planning should begin regarding potential residual functions.

Guanciale said Italy would be willing to look at assistance to build domestic capacity in Rwanda, but that Italy wanted assurances the death penalty would not be applied to transferred cases. Astraldi declined to engage on detainee issues, claiming it was beyond his portfolio. End summary.

ICTY: Time to Plan for the Future; Completion strategy and residual issues

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¶3. Williamson discussed selecting the next ICTY Prosecutor with De Cardona, De Vito and Astraldi. He noted that the US viewed Deputy Prosecutor David Tolbert as a strong candidate to replace Del Ponte after she leaves. However, the US also was sensitive to the need to secure a UN position for UNIIC Commissioner Serge Brammertz, who is also interested in the ICTY position. The US therefore supports a delay of this

decision in the UNSC. Williamson explained that the ICTY can handle not having a permanent Prosecutor through the end of this year. In that period, perhaps a more appropriate position can be found for Brammertz. In the meantime, Tolbert can continue the work of Del Ponte in an acting capacity.

¶ 14. (C) Williamson stressed that the US has been trying to provide a balanced public message whereby the ICTY realizes the importance of completing its work in a timely manner, while making it clear that fugitives could not escape justice. Additionally, the US currently was reviewing the Tribunals, registrars, paper on residual issues needed post-completion. Most important to the US was that a skeletal (or on-call) staff be maintained if high-profile fugitives, such as Mladic or Karadzic, were eventually captured. The US was prepared to examine other options, including using the premises of the ICC in order to process trials of these two fugitives or other necessary functions after that date.

¶ 15. (C) Williamson discussed on-going issues with domestic prosecutions in the Former Yugoslavia, many of which could be improved with greater EU involvement. On the UNSC, the US wanted to build consensus on IC issues, and would look to Italy as a partner.

¶ 16. (C) As the tribunal winds down its work, the international community needs to coordinate closely on the issue of fugitives and Serbian cooperation. The IC's initial position requiring Mladic's arrest (such as for PfP or SAA negotiations) had been watered down to the point where only positive steps in cooperating with the tribunal were required. The Euro-Atlantic community had opened the door to Serbia but has still seen very little in return. The new Serbian government appeared to be a reiteration of the former

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Serbian government (at least as far as the fugitives issue is concerned) with Kostunica in control of most of the institutions that would be needed to arrest Mladic.

Give Kostunica Breathing Room; Hariri-ICTY Should not be Linked

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¶ 17. (C/NF) De Cardona stated that Italy was also interested in completion strategy goals and residual issues and wanted to make sure the shut down was orderly. The GOI would study any US proposals carefully. With regard to fugitives, the international community should give the new Serbian government some wiggle room. This government is no longer a minority government supported by the Socialist party: De Cardona stressed that Kostunica's promise to the Socialists not to arrest Mladic was the driving force behind prior inaction. Consequently, Italy believed that Kostunica now would find a way to deliver Mladic and divert voter anger toward Tadic. In any case, the EU and NATO had gotten as much mileage as possible from conditionality up to now; the EU should move forward on SAA with an understanding that full ICTY compliance would be the price to pay for finalizing the agreement. The Serbian authorities would then arrest Mladic because "they have much to lose" if EU talks fail again. Given the pending Kosovo status decision, now would not be a good time to publicly pressure the new government. On options for a replacement for Del Ponte, De Cardona and De Vito said Tolbert would be a good choice that would allow continuity for the work of the tribunal. Neither was prepared to endorse the proposed strategy of delaying a UNSC decision, but noted that it sounded reasonable.

Italy May Assist in Rwandan Court Capacity Building

¶ 18. (C) Williamson told Guanciale that the US would appreciate

more Italian involvement on Africa issues, now that Italy held a non-permanent UNSC seat. On the ICTR, the U.S. wanted to continue to pressure governments who may be protecting remaining fugitives - particularly Kenya, build the capacity of Rwandan courts to handle trials potentially transferable from the ICTR, and formulate a paper to address issues of the broader legacy of the ICTR. Of the 18 outstanding fugitive cases, Mpiranya and Kabuga would need to be tried by an international court. If found after ICTR completion, a reserve staff could try the two, perhaps using ICC or other suitable facilities. Williamson said the US would look to Italy as a partner in financing domestic capacity Building in Rwanda. On the Rwanda Patriotic Front (RPF) cases, the ICTR would either need to issue indictments or transfer the files to domestic courts. The international community needed to present a united front to Kigali, urging the government to deal with the cases for its own credibility. Williamson asked if Italy shared the US assessment that Burundi was not interested in setting up a truth and reconciliation process and trials.

¶9. (C/NF) Orazio and Astraldi said Italy was in agreement with the US on ICTR issues. Italy cooperates with that institution and, as Astraldi noted, was considering agreeing to house those convicted by the ICTR in its prisons. With regards to case transfers to Rwanda, Italy sought assurances that the death penalty would not be applied. (Williamson responded that Rwanda was set to approve a law that would rule out the death penalty.) Italian NGOs in Rwanda were engaged in humanitarian work, but Italy could examine possibilities for assisting with capacity building. Guanciale agreed that pursuing RPF cases was important to the credibility of the ICTR, but that they would have to be handled with caution.

Italy Ready to Cooperate on Completion Strategy

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¶10. (C) When pressed on the recent US request for resettlement of third-country detainees from Guantanamo, Astraldi told Williamson that he was not prepared to address the issue, noting that it is sensitive and best addressed at a political level.

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¶11. (U) Amb. Williamson has cleared this cable.
Spogli